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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP 16 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	RM 8535
)	

Reply Comments of Ameritech

I. Introduction and Summary.

Ameritech files its reply comments proposing that the Commission take the policy leadership by establishing national recovery criteria for the competitively neutral recovery of costs that must be met by each region or state when it implements long term number portability.

Ameritech opposes the imposition of national pooling of long term number portability costs. The recovery period involved does not warrant the administrative overhead of establishing and operating a national pool. Thus, any benefits of pooling in this context are out weighted by the inefficiency it introduces. Furthermore, Ameritech is concerned that national pooling will not create proper incentives for carriers and administrators to be as cost effective, as possible.

Since the comments filed in this phase of this Docket are so contradictory, Ameritech does not believe that it is appropriate to mandate

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one national recovery mechanism. For that reason, Ameritech will not repeat the proposal it made in its comments here, although it believes that its proposal is consistent with the requirements of the Telecommunications Act of 1996, and the Commission's principles. Rather, Ameritech will identify recovery criteria that the Commission could incorporate into its Rules that will provide minimum federal requirements for state recovery mechanisms.

The proposed national criteria for recovery of long term number portability costs would reflect the general principles proposed by the Commission in the First Report and Order in this Docket, the Commission's conclusions in this Docket, and areas of general agreement in the comments. The criteria provides the next level of detail implementing the general principles announced by the Commission in its First Number Portability Report and Order,¹ and will assist the parties in resolving their differences at the state level.

Ameritech also proposes that the Commission clarify that costs specifically incurred by carriers to enhance and expand the capacity of their existing equipment, facilities, systems and software to accommodate

¹ First Report and Order and Further Notice of Proposed Rulemaking released July 2, 1996 ("First Number Portability Order") para. 210.

long term number portability traffic be recoverable on a competitively neutral basis. Ameritech will provide a list of costs that the Commission should specifically identify as qualifying for such recovery.

II. The Commission should establish criteria for competitively neutral recovery of long term number portability costs, and delegate to the state commissions the development of specific recovery mechanisms.

The parties support the Commission's general competitively neutral principles, but are not in agreement on how those principles should be implemented through a specific cost recovery mechanism. In fact, literally no two parties make the same proposal, and many proposals are in direct conflict with each other.² Ameritech submits that the wide diversity in proposals support the notion that circumstances and needs vary widely between areas and carriers. As such, Ameritech agrees that the Commission should allow the individual states to design mechanisms for the competitively neutral recovery of cost of establishing and providing long term number portability in their states.³ Nonetheless, it is clear the incumbent LECs will be funding the vast majority of the costs to establish long term number portability, and

² See, e.g., on how costs should be allocated: SBC p. 7 (Type 1 & 2 by access lines); Teleport p. 4, 8 (Type 1-gross revenues less payments to other carriers, Type 2-self recovery); Public Utilities Commission of California p. 7 and 13 (Type 1-active lines, Type 2-50% self funding, 50% pooled and allocated on gross revenues less payments to other carriers); NYNEX p. 8 (retail revenues, Type 1 & 2); CSA p. 7 (Type 1 and 2-telephone numbers). Other examples are TCG p. 10 who proposes, "Each carrier must be permitted to choose to recover such [LNP] costs through customer access line charges, subject to applicable price cap restrictions, or to absorb voluntarily such costs in whole or in part." Sprint p.11, "Granting exogenous cost treatment for price cap carriers, and an equivalent surcharge-type mechanism for rate of return carriers, for these direct costs is warranted..." Airtouch p 7, "LPN costs should be allocated on the basis of total retail minutes of use." Nextel p. 2-3, "LPN costs should be allocated based on gross revenues." Omnipoint p.4, "LPN costs should be allocated on a per query basis."

³ See, e.g., New York Department of Public Service ("NYPSC") p.2.

that, under the Telecom Act of 1996, the Commission must take responsibility for ensuring that recovery is provided for at the state level.

To this end, Ameritech recommends that the Commission assert jurisdiction over cost recovery for long term number portability by establishing clear policy principles, and by creating specific cost recovery criteria in its Rules. The Commission should then delegate to the states the task of overseeing the designing and implementing of a mechanism that complies with national principles and criteria, while best meeting local circumstances.

The national cost recovery criteria would seek to strike a balance between providing direction on national requirements for competitive neutrality, while delegating sufficient flexibility to the states to enable the industry and the state commissions to work out mechanisms that best fit local needs. The Commission could require that each state establish a local mechanism that incorporates those criteria, no later than the date when long term number portability is implemented in the first MSA in that state or region. In the case of a regional system, the state commissions involved would jointly address allocation among themselves.

This division of responsibility based upon national recovery criteria and state implementation, properly balances the Commission's responsibility to ensure that competitively neutral cost recovery is in fact implemented across the nation, with the need for local flexibility and diversity. Such an

approach is authorized by Section 251(e) of the Telecommunications Act of 1996, which clearly recognizes that the Commission may delegate its authority in the area.⁴ Moreover, the proposed approach is consistent with the Commission's decision not to mandate a specific national technology for long term number portability, but to adopt instead "performance criteria" for long term number portability that must be met by each regional or state, regardless of the technology chosen.⁵

III. Ameritech proposes criteria that assure competitively neutral recovery for all telecommunications carriers.

In its First Number Portability Order, the Commission proposes two general principles for the recovery of long term number portability costs.

Those principles are:

- (1) a competitively neutral cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber; and
- (2) a competitively neutral recovery mechanism should not have a disparate effect on the ability of competing service providers to earn a normal return.⁶

Virtually all parties agree with the Commission's general principles, and no party opposes them. For that reason, they should be adopted by the Commission and used as the standard against which all recovery mechanisms are measured.

⁴ Section 251(e) provides in part "nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction."

⁵ First Number Portability Order para. 46-48.

⁶ First Number Portability Order para. 210.

However, the Commission's principles are general in nature, and provide little direction on the many implementation and administrative details that the Commission raises in its First Order, and that were addressed by the parties in their comments. As a result, Ameritech proposes that the Commission establish in its Rules particular cost recovery criteria that address this next level of detail. Ameritech believes that the following cost recovery criteria are consistent with the Commission's principles, and reflect the positions and concerns of many of the parties:

1. National pooling of number portability costs is not desirable because it is inefficient and unduly expensive.
2. Since long term number portability is required by federal statute, the Commission should assure that carriers are authorized by the states to recover all relevant costs of establishing and providing it (not withstanding any price cap or other regulatory arrangements).⁷
3. Type 1 (shared industry) costs can be pooled at the regional or state level, if they are then allocated to all telecommunications carriers⁸ based upon a formula that reflects the relative size of each carrier's telecommunications operations in the state or region (e.g.: gross telecommunications revenues).
4. Once Type 1 costs are allocated to a carrier, those costs can be recovered by that carrier on the same basis as its Type 2 costs (carrier-specific direct costs).
5. Type 2 costs can be pooled at the region or state level, if they are then allocated to all telecommunications carriers, not just local exchange carriers ("LECs"), based upon a measure that reflects the

⁷ Many parties agree that carriers should be allowed to recover all relevant costs of establishing and providing long term number portability, but they disagree on the means. See, Pacific Telesis p. 4; GTE p. 2; U S West p. 5; NYNEX p. 2; California Department of Consumer Affairs (DCA) p. 9-11; General Services Administration (GSA) p. 9-10.

⁸ Parties that support allocation to all telecommunications carriers include: Frontier p. 4, ALTS p. 4; BellSouth p. 4; Teleport p. 4; SBC. p. 5; California Public Utilities Commission (CPUC) p. 5; Time Warner p. 7-8; Winstar p. 4; Public Utilities Commission of Ohio (PUCO) p. 4; Colorado Public Service Utilities Commission (CoPUC) p. 5; USTA, p. 12; Pacific Telesis p. 6.

relative size of each carrier's telecommunications operations in the state (such as gross telecommunications revenues).⁹

6. If Type 2 costs are pooled, then LECs must be able to recover those costs allocated to their local exchange operations from their local exchange end users through their service charges (e.g., local usage rates) for a specified amortization period.
7. If LECs are recovering their Type 2 costs directly from their end users without pooling, then (in order to be competitively neutral) each LEC must assess an end user surcharge to its local exchange end users that is uniform per end user, since an unequal charge could place incumbent LECs at a competitive disadvantage.¹⁰
8. Direct recovery of Type 2 costs without pooling should be adopted only if a uniform charge can fairly compensate all reasonably efficient LECs for their costs.¹¹
9. Toll providers must be allowed to recover their Type 2 costs applicable to their toll services through their toll rates.

⁹ Allocation based upon a measure that reflects the size of each carrier's telecommunications operations properly implements the Commission's first principle that "a competitively neutral cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber." First Number Portability Order para. 210. Ameritech demonstrates in its comments that the use of gross revenues minus payments to other carriers, as proposed by the Commission at paragraph 213 of the First Number Portability, does not meet this principle since it places facility-based carriers at a significant competitive disadvantage. Ameritech p. 5-6.

¹⁰ Recovery of a uniform end user charge is necessary to meet the Commission's first principle that "a competitively neutral cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber." *Id.* As many parties point out, the costs to some incumbent LECs of implementing and providing long term portability will be significantly higher than those incurred by new LECs. *See* Pacific Telesis p. 10; USTA p. 9; GTE p. 8; U S West p. 13. Therefore without some form of uniform charge, these incumbent LECs may be required to assess a much higher end user charge to recover their costs which would clearly place it at a significant competitive disadvantage.

¹¹ A reasonable opportunity for all LECs to obtain reasonable compensation for costs they incur in providing long term number portability meets the Commission's second principle that "a competitively neutral recovery mechanism should not have a disparate effect on the ability of competing service providers to earn a normal return." *Id.* For example, carriers could be required to charge an equal surcharge for a period of three years. At that time, carriers could then elect to either discontinue the surcharge or seek permission to extend the surcharge another two years. Permission to extend would be based on a demonstration that full recovery had not yet occurred. Under no circumstances does the surcharge need to be applied for greater than five years. *See* Ameritech's Comments p. 8 for a complete explanation of how such a surcharge could be calculated so it fairly compensated all LECs.

10. Costs of establishing long term number portability can be amortized over no more than five years.¹² On going Type 1 costs incurred in operating a regional or state database after five years can be recovered from the users of the regional or state database, as a cost of doing business.
11. It is competitively neutral for one carrier to charge another when the first carrier performs long term number portability services for the second carrier, either under contract or as a default carrier.¹³ But, except where they are performing a service for another carrier, telecommunication carriers should not recover their Type 2 costs from other telecommunications carriers.
12. State commissions should report to the Commission their plans for competitively neutral cost recovery in their states at least three months prior to the date when the first MSA is converted to long term number portability.

The Commission should declare that both pooling and end user surcharges (independently or in conjunction with each other) may be used by a state commission, as long as the above criteria are met. In each state, the industry could then decide if pooling of Type 2 costs is appropriate, or in the alternative, whether each carrier can reasonably be compensated by directly recovering its Type 2 costs through a uniform charge to its end users.

Resolution of this issue could properly turn on whether it is possible to establish a uniform end user charge that fairly compensates each carrier for its Type 2 costs actually incurred without more evenly distributing those costs through a pool.

IV. The Commission should specify what long term number portability costs are eligible for competitively neutral recovery.

¹² See, Cincinnati Bell, p.10 USTA p. iv.

¹³ See, Ameritech p. 10-11.

In order to ensure consistency and fair recovery of all relevant costs, the Commission should provide detailed guidance to the states regarding costs that qualify as Type 1 and 2 costs. For example, in the First Order the Commission incorrectly identified the costs of upgrading SS7 capabilities, or adding intelligent network ("IN") or advanced intelligent network (AIN) capabilities as costs that are not directly related to the provision of long term number portability.¹⁴ Parties, including Ameritech, have pointed out that in many cases capacity must be added to IN, AIN and other existing facilities and systems, that are in fact directly related to creating the additional capabilities and capacity necessary to accommodate long term number portability traffic. As such, the Commission should adopt the general criteria that costs incurred specifically to increase the capacity or enhance the capabilities of existing equipment, facilities, systems and software in order to support long term number portability are recoverable. The Commission should properly recognized as Type 1 costs.

Type 1:

1. Service Management System
2. Database Administration

At a minimum, the Commission should, identify the following Type 2 costs as qualifying for recovery.

Type 2:

¹⁴ First Report and Order para. 227.


1. Any Service Control Point ("SCP") dedicated to long term number portability.
2. Augmenting the capacity of the SS7 network to accommodate increased or changed signaling traffic resulting from long term number portability, including additional links, ports, and other changes necessary to increase throughput capacity.
3. New Service Management Systems ("SMS"), or revisions to existing SMS to interact with the state or regional long term number portability SMS.
4. New Operations Support Systems ("OSS") or revisions to existing OSS necessary to accommodate long term number portability.
5. Upgrades necessary for switches to accept long term number portability software, such as additional generic software.
6. Long term number portability software.

V. CONCLUSION

For the above reasons, Ameritech requests that the Commission incorporate in its Rules the above described general principles and cost recovery criteria governing the design and implementation of competitively neutral cost recovery mechanisms; that it delegate to the state commissions the authority to develop such mechanisms at the regional or state level

consistent with the Commission's principles and guidelines; and that it identify costs that must be recovered by all telecommunications carriers regardless of the mechanism chosen.

Respectfully submitted,

A handwritten signature in cursive script, reading "Larry A. Peck". The signature is written in dark ink and is positioned above a horizontal line.

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September 16, 1996

CERTIFICATE OF SERVICE

I, Edith Smith, do hereby certify that a copy of Reply Comments of Ameritech has been served on the parties listed on the attached service list, via first class mail, postage prepaid, on this 16th day of September, 1996.

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